

UNITED STATES DEPARTMENT OF COMMERCE  
BUREAU OF INDUSTRY AND SECURITY  
WASHINGTON, D.C. 20230

\_\_\_\_\_  
In the Matter of: )  
 )  
Aviktor Trading Corporation )  
17650 SW 87<sup>th</sup> Avenue )  
Palmetto Bay, FL 33157 )  
 )  
Respondent )  
\_\_\_\_\_

ORDER RELATING TO AVIKTOR TRADING CORPORATION

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified Aviktor Trading Corporation (“Aviktor”), of its intention to initiate an administrative proceeding against Aviktor pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2007)) (the “Regulations”),<sup>1</sup> and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the “Act”),<sup>2</sup> through issuance of a proposed charging letter to Aviktor that alleged that Aviktor committed two violations of the Regulations. Specifically, the charges are:

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<sup>1</sup> The violations alleged to have been committed occurred in 2005. The Regulations governing the violations at issue are found in the 2005 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2005)). The 2007 Regulations establish the procedures that apply to this matter.

<sup>2</sup> Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2007 (72 Fed. Reg. 46,137 (Aug. 16, 2007)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) (“IEEPA”).

**Charge 1 15 C.F.R. § 764.2(a) - Unlicensed Export of Thermal Imaging Camera to Ecuador**

On or about September 12, 2005, Aviktor engaged in conduct prohibited by the Regulations by exporting a thermal imaging camera, an item subject to the Regulations and classified under Export Control Classification Number ("ECCN") 6A003.b.4, to Ecuador, without the Department of Commerce license required by Section 742.4(a) of the Regulations. In doing so, Aviktor committed one violation of Section 764.2(a) of the Regulations.

**Charge 2 15 C.F.R. § 764.2(a) - Failing to File a Shipper's Export Declaration**

On or about September 12, 2005, Aviktor exported a thermal imaging camera, an item classified under ECCN 6A003.b.4 of the Regulations and controlled for National Security ("NS") reasons, from the United States to Ecuador without filing a Shipper's Export Declaration ("SED"). Section 758.1(b)(1) of the Regulations requires that an SED be filed "for all exports subject to the EAR that require a license regardless of value or destination." In doing so, Aviktor committed one violation of Section 764.2(a) of the Regulations.

WHEREAS, BIS and Aviktor have entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and

WHEREAS, I have approved of the terms of such Settlement Agreement;

IT IS THEREFORE ORDERED:

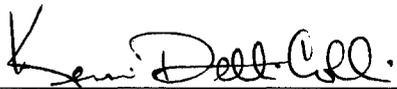
FIRST, that a civil penalty of \$16,000 is assessed against Aviktor, which shall be paid to the U.S. Department of Commerce in 12 equal monthly installments of \$1,333.33 with the first payment due not later than April 1, 2008 and the last payment due not later than March 1, 2009. Each payment shall be due on the first day of the month.

SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, Aviktor will be assessed, in addition to the full amount of the civil penalty and interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

THIRD, that the timely payment of the civil penalty set forth above is hereby made a condition to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to Aviktor. Accordingly, if Aviktor should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of Aviktor's export privileges for a period of one year from the date of entry of this Order.

FOURTH, that the proposed charging letter, the Settlement Agreement, and this Order shall be made available to the public.

This Order, which constitutes the final agency action in this matter, is effective immediately.

  
for, Darryl W. Jackson  
Assistant Secretary of Commerce  
for Export Enforcement

Entered this 28<sup>th</sup> day of March, 2008.

UNITED STATES DEPARTMENT OF COMMERCE  
BUREAU OF INDUSTRY AND SECURITY  
WASHINGTON, D.C. 20230

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In the Matter of: )  
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Aviktor Trading Corporation )  
17650 SW 87<sup>th</sup> Avenue )  
Palmetto Bay, FL 33157 )  
)  
Respondent )  
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SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Aviktor Trading Corporation (“Aviktor”), and the Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) (collectively, the “Parties”), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2007)) (the “Regulations”),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the “Act”),<sup>2</sup>

WHEREAS, BIS has notified Aviktor of its intention to initiate an administrative proceeding against Aviktor pursuant to the Act and the Regulations;

<sup>1</sup> The violations alleged to have been committed occurred in 2005. The Regulations governing the violations at issue are found in the 2005 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2005)). The 2007 Regulations establish the procedures that apply to this matter.

<sup>2</sup> Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2007 (72 Fed. Reg. 46,137 (Aug. 16, 2007)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) (“IEEPA”).

WHEREAS, BIS has issued a proposed charging letter to Aviktor that alleged that Aviktor is liable for two violations of the Regulations, specifically:

**Charge 1 15 C.F.R. § 764.2(a) - Unlicensed Export of Thermal Imaging Camera to Ecuador**

On or about September 12, 2005, Aviktor engaged in conduct prohibited by the Regulations by exporting a thermal imaging camera, an item subject to the Regulations and classified under Export Control Classification Number ("ECCN") 6A003.b.4, to Ecuador, without the Department of Commerce license required by Section 742.4(a) of the Regulations. In doing so, Aviktor committed one violation of Section 764.2(a) of the Regulations.

**Charge 2 15 C.F.R. § 764.2(a) - Failing to File a Shipper's Export Declaration**

On or about September 12, 2005, Aviktor exported a thermal imaging camera, an item classified under ECCN 6A003.b.4 of the Regulations and controlled for National Security ("NS") reasons, from the United States to Ecuador without filing a Shipper's Export Declaration ("SED"). Section 758.1(b)(1) of the Regulations requires that an SED be filed "for all exports subject to the EAR that require a license regardless of value or destination." In doing so, Aviktor committed one violation of Section 764.2(a) of the Regulations.

WHEREAS, Aviktor has reviewed the proposed charging letter and is aware of the allegations made against it and the administrative sanctions which could be imposed against it if the allegations are found to be true;

WHEREAS, Aviktor fully understands the terms of this Agreement and the Order ("Order") that the Assistant Secretary of Commerce for Export Enforcement will issue if he approves this Agreement as the final resolution of this matter;

WHEREAS, Aviktor enters into this Agreement voluntarily and with full knowledge of its rights;

WHEREAS, Aviktor states that no promises or representations have been made to it other than the agreements and considerations herein expressed;

WHEREAS, Aviktor neither admits nor denies the allegations contained in the proposed charging letter;

WHEREAS, Aviktor wishes to settle and dispose of all matters alleged in the proposed charging letter by entering into this Agreement; and

WHEREAS, Aviktor agrees to be bound by the Order, if entered;

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over Aviktor, under the Regulations, in connection with the matters alleged in the proposed charging letter.

2. The following sanction shall be imposed against Aviktor in complete settlement of the alleged violations of the Regulations relating to the transactions specifically detailed in the proposed charging letter:

a. Aviktor shall be assessed a civil penalty in the amount of \$16,000 which shall be paid to the U.S. Department of Commerce in 12 equal monthly installments of \$1,333.33, with the first payment due not later than April 1, 2008, and the last payment due not later than March 1, 2009.

b. The timely payment of the civil penalty agreed to in paragraph 2.a is hereby made a condition to the granting, restoration, or continuing validity of any export license, permission, or privilege granted, or to be granted, to Aviktor. Failure to make timely payment of the civil penalty set forth above may result in the denial of all of Aviktor's export privileges for a period of one year from the date of imposition of the penalty.

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, Aviktor hereby waives all rights to further procedural steps in this matter (except with

respect to any alleged violations of this Agreement or the Order, if entered), including, without limitation, any right to: (a) an administrative hearing regarding the allegations in any charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if entered; and (c) seek judicial review or otherwise contest the validity of this Agreement or the Order, if entered.

4. Upon entry of the Order and timely payment of the \$16,000 civil penalty, BIS will not initiate any further administrative proceeding against Aviktor in connection with any violation of the Act or the Regulations arising out of the transactions identified in the proposed charging letter.

5. BIS will make the proposed charging letter, this Agreement, and the Order, if entered, available to the public.

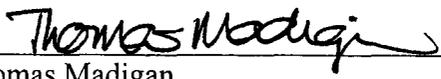
6. This Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(a) of the Regulations, no Party may use this Agreement in any administrative or judicial proceeding and the Parties shall not be bound by the terms contained in this Agreement in any subsequent administrative or judicial proceeding.

7. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, if entered, nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the U.S. Government with respect to the facts and circumstances addressed herein.

8. This Agreement shall become binding on the Parties only if the Assistant Secretary of Commerce for Export Enforcement approves it by entering the Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

9. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

BUREAU OF INDUSTRY AND SECURITY  
U.S. DEPARTMENT OF COMMERCE

  
\_\_\_\_\_  
Thomas Madigan  
Acting Director  
Office of Export Enforcement

AVIKTOR TRADING CORPORATION

  
\_\_\_\_\_  
Victor Flor  
President  
Aviktor Trading Corporation

Date: March 28, 2008

Date: April 16, 2008

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Aviktor Trading Corporation  
17650 SW 87<sup>th</sup> Avenue  
Palmetto Bay, FL 33157

Attention: *Mr. Victor Flor*  
*Owner*

Dear Mr. Flor:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that Aviktor Trading Corporation (“Aviktor”), of Palmetto Bay, Florida has committed two violations of the Export Administration Regulations (the “Regulations”),<sup>1</sup> which are issued under the authority of the Export Administration Act of 1979 as amended (the “Act”).<sup>2</sup> Specifically, BIS charges that Aviktor committed the following violation:

**Charge 1      15 C.F.R. § 764.2(a) - Unlicensed Export of Thermal Imaging Camera to Ecuador**

On or about September 12, 2005, Aviktor engaged in conduct prohibited by the Regulations by exporting a thermal imaging camera, an item subject to the Regulations and classified under Export Control Classification Number (“ECCN”) 6A003.b.4, to Ecuador, without the Department of Commerce license required by Section 742.4(a) of the Regulations. In doing so, Aviktor committed one violation of Section 764.2(a) of the Regulations.

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<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2006). The violations charged occurred in 2005. The Regulations governing the violations at issue are found in the 2005 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2005)). The 2006 Regulations govern the procedural aspects of this case.

<sup>2</sup> 50 U.S.C. app. §§ 2401- 2420 (2000). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), as extended most recently by the Notice of August 3, 2006, (71 Fed. Reg. 44551(August 7, 2006)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) (“IEEPA”).

**Charge 2 15 C.F.R. § 764.2(a) - Failing to File a Shipper's Export Declaration**

On or about September 12, 2005, Aviktor exported a thermal imaging camera, an item classified under ECCN 6A003.b.4 of the Regulations and controlled for National Security ("NS") reasons, from the United States to Ecuador without filing a Shipper's Export Declaration ("SED"). Section 758.1(b)(1) of the Regulations requires that an SED be filed "for all exports subject to the EAR that require a license regardless of value or destination." In doing so, Aviktor committed one violation of Section 764.2(a) of the Regulations.

\* \* \* \* \*

Accordingly, Aviktor is hereby notified that an administrative proceeding is instituted against it pursuant to Section 13(c) of the Act and Part 766 of the Regulations for the purpose of obtaining an order imposing administrative sanctions, including any or all of the following:

The maximum civil penalty allowed by law of up to \$11,000 per violation;<sup>3</sup>

Denial of export privileges; and/or

Exclusion from practice before BIS.

If Aviktor fails to answer the charges contained in this letter within 30 days after being served with notice of issuance of this letter, that failure will be treated as a default. (Regulations, Sections 766.6 and 766.7). If Aviktor defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to Aviktor. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty on each of the charges in this letter.

Aviktor is further notified that it is entitled to an agency hearing on the record if Aviktor files a written demand for one with its answer. (Regulations, Section 766.6). Aviktor is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent it. (Regulations, Sections 766.3(a) and 766.4).

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<sup>3</sup> See 15 C.F.R. § 6.4(a)(2).

Aviktor Trading Corporation  
Proposed Charging Letter  
Page 3

The Regulations provide for settlement without a hearing. (Regulations, Section 766.18). Should Aviktor have a proposal to settle this case, Aviktor or its representative should transmit it to the attorney representing BIS named below.

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, Aviktor's answer must be filed in accordance with the instructions in Section 766.5(a) of the Regulations with:

U.S. Coast Guard ALJ Docketing Center  
40 S. Gay Street  
Baltimore, Maryland 21202-4022

In addition, a copy of Aviktor's answer must be served on BIS at the following address:

Chief Counsel for Industry and Security  
Attention: Gregory Michelsen  
Room H-3839  
United States Department of Commerce  
14th Street and Constitution Avenue, N.W.  
Washington, D.C. 20230

Gregory Michelsen is the attorney representing BIS in this case; any communications that Aviktor may wish to have concerning this matter should occur through him. He may be contacted by telephone at (202) 482-5301.

Sincerely,

Michael D. Turner  
Director  
Office of Export Enforcement

Enclosure